

## COMMITTEE ON BILLS ON SECOND READING

**June 23, 2010**

**Immediately following  
Sp. Committee on Airport Activities**

Chairman DeVries called the meeting to order.

The Clerk called the roll.

Present: Aldermen DeVries, Lopez, Arnold, Corriveau

Absent: Alderman Shaw

Messrs: L. LaFreniere, T. Clark, B. Stanley, M. Boldin, J. Gile

Chairman DeVries addressed item 3 of the agenda:

3. Ordinance Amendment:

“Amending the Zoning Map of the City of Manchester by rezoning an area currently zoned as Research Park District (RP) to Neighborhood Business District (B-1), generally located in the vicinity of Hackett Hill Road, Poore Road, and the F.E. Everett Turnpike – Interstate 293, including a portion of TM 766, Lot 15, a portion of TM 766, Lot 14D and a portion of TM 767, Lot 3A.”

On motion of Alderman Arnold, duly seconded by Alderman Lopez, it was voted to discuss this item.

Alderman Arnold stated as the Committee is aware, this ordinance amendment relates to the Northwest Business Park and the proposal that has been submitted and subsequently condoned by the full Board of Aldermen, the proposal that was submitted by the Danais Reality Group. We held a rezoning hearing on this issue yesterday and I believe all of the Committee members were in attendance. We received testimony from Attorney Dan Callaghan, who represents the principals of JPSA, which is a company that has its headquarters located on Hackett Hill Road. They are an abutter to the property that is expected to be developed by the Danais Group and they had voiced concerns. As a result of the conversation between the Aldermen and Attorney Callaghan and his clients at that hearing, it was my

understanding that Attorney Callaghan and his clients are going to be sitting down with City staff. They have also asked to participate in discussions with representatives of the Danais Group to resolve any issues of concern that are out there. It was also my understanding, as a result of the testimony given yesterday, that there is a likelihood of an amicable resolution to any concerns. I guess in light of that and acknowledging that that meeting is expected to occur in the next week or so, I'll yield to the Board's wishes, but I wonder if it doesn't make sense to simply table this until a time after that meeting.

Chairman DeVries stated I would acknowledge your thoughts on tabling but ask if you could hold off on the motion of tabling in case there is a request of any other Alderman for any information or if Mr. LaFreniere wants to make a presentation. We can certainly do that prior to tabling.

Alderman Arnold stated surely.

Chairman DeVries asked is there a need for further information from any Aldermen on the Committee?

Alderman Lopez stated as long as we are going to table it, I would like to table it until a specified date before the sixth.

Chairman DeVries stated we have already checked with the City Clerk and there is a regularly scheduled Committee on Bills on Second Reading for July 6<sup>th</sup>, which is the first Tuesday of July and prior to the next full Board meeting, the same afternoon. We would be meeting that date anyway and I would concur that it would be the expectation that this would have the ability to be brought up and voted on that afternoon. That would also allow the meeting in the morning, I believe it was, between the parties of interest. It is very well timed.

Alderman Lopez stated the other point that...they already had a presentation. Is it necessary to have another one?

Chairman DeVries replied we had a public hearing before the full Board yesterday and I just wanted to avail any of the Committee members who had questions. I see Mr. LaFreniere is here and ready to make a presentation. If there is a desire, that can occur before we accept that motion to table.

Alderman Corriveau stated I would just ask in accepting the motion to table that the interested parties be in attendance for our Committee hearing on July 6<sup>th</sup> because I'm sure we will have questions for them that day.

Alderman Arnold stated I concur.

Chairman DeVries stated we can ask the City Clerk to make sure that the parties, as known to them or their representatives, be notified. I think we have that from the abutter notification that went out so we can reach out to them to make sure that they are here and aware of July 6<sup>th</sup>.

Alderman Lopez stated maybe I will ask Leon LaFreniere to come forward, please. For the record, I want to make sure that we're not going beyond what our task is here. I understand and I commend the Aldermen for wanting to let the parties get together and have discussions because they brought up some points. For the record, and the City Solicitor can correct me...I don't want the intent that this Committee change anything under the conditions or whatever that the Board has approved or the public has stated yesterday. For an example, the use of warehousing and wholesale storage was not permitted and has been changed to permitted. In my opinion, if we try to do anything like that in the negotiations, whether the two parties agree or not, that would probably have to go back out to a public hearing. Leon or the City Solicitor could guide us in that direction.

Chairman DeVries stated Alderman, I would concur with you that a substantial change to the ordinance that occurs while it is under the jurisdiction of Bills on Second Reading would certainly require the process to be restarted. I would also agree with you that the example that you gave would be considered to be substantial and likely require a start over, including the public hearing. I would not agree that it would not be within the jurisdiction if so desired by this Committee. This Committee has very broad jurisdiction. We try to stay narrow, but the jurisdiction can be as we wish as a Committee. Questions or presentation, what is the desire?

Alderman Lopez asked do you agree with what I just said?

Mr. Leon LaFreniere, Director of Planning and Community Development, replied I would defer to Attorney Clark with regards to the specifics. I believe you can make some changes in context of potentially reducing the impact of the requested change. I think significant changes would require a reposting and a rehearing, but I would suggest that Mr. Clark weigh in on that.

Mr. Tom Clark, City Solicitor, stated that is correct. Any material or significant change to what was presented at the public hearing would require us to go back out for another public hearing, but changes that would reduce the impact of the matter after it went out to public hearing could possibly fit within the scope of changing without a public hearing. We would judge each individually on its facts.

Chairman DeVries asked were there further requests or questions of Mr. LaFreniere? Seeing none, I would entertain a motion to table item three of our agenda.

Alderman Lopez stated I want to make sure for the record that it is scheduled for July 6<sup>th</sup>.

Chairman DeVries stated I would concur. I would expect to see this for discussion on July 6<sup>th</sup>.

On motion of Alderman Arnold, duly seconded by Alderman Corriveau, it was voted to table this item.

Chairman DeVries addressed item 4 of the agenda:

4. Ordinance Amendment:

“Amending the Zoning Ordinance of the City of Manchester (RP Zone) by revising Section 4.01 A. Base Districts and Section 5.10 Table of Principal Uses.”

Chairman DeVries stated this is related to the same matter that we just discussed. It is under the same caveat that we expect to see this on July 6<sup>th</sup> at the regularly scheduled Bills on Second Reading.

On motion of Alderman Arnold, duly seconded by Alderman Corriveau, it was voted to table this item.

## **TABLED ITEMS**

5. Ordinance Amendment:

“Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by amending Section 70.36 Stopping, Standing and Parking by adding Section (E) Overtime Parking and Section (F) Penalty.”

*(Note: Tabled 5/24/10)*

On motion of Alderman Lopez, duly seconded by Alderman Arnold, it was voted to remove this item from the table.

Alderman Lopez stated I would like these off the table to get a complete update or get rid of them. What is the status here?

Ms. Brandy Stanley, Parking Manager, replied at the last meeting there were some concerns about this ordinance that were raised and the Committee asked me to do some research in conjunction with Intown and the local business owners about their thoughts and feelings on this particular ordinance. I have not done that at this point and I believe that the Mayor has some ideas about changes to this ordinance that may be made that might make it work a little better than the way it is proposed currently, so hopefully at the next meeting you will have an update.

Chairman DeVries stated that would be items five and six dealing with overtime parking.

On motion of Alderman Lopez, duly seconded by Alderman Arnold, it was voted to retable this item.

6. Ordinance Amendment:

“Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by amending Section 70.06 Definitions to add the definition of Overtime Parking.”  
*(Note: Tabled 5/24/10)*

On motion of Alderman Lopez, duly seconded by Alderman Arnold, it was voted to remove this item from the table.

On motion of Alderman Lopez, duly seconded by Alderman Arnold, it was voted to retable this item.

7. Ordinance Amendment:

“Amending Section 33.60 Standby Duty by adding a new Section (D).”  
*(Note: Attached is a memo from Jane Gile, Human Resources Director, providing her recommendation to receive and file. Tabled 11/24/09; Office of Youth Services Director to review Ordinance.)*

On motion of Alderman Lopez, duly seconded by Alderman Arnold, it was voted to remove this item from the table.

Alderman Lopez asked is there a status report on this since November 24, 2009?

Chairman DeVries replied we have a memo from Jane Gile.

Mr. Marty Boldin, Youth Services Director, stated the contract that was passed in last night's session essentially took the responsibility for this and contracted it to the EAP so it is really a moot issue.

Ms. Jane Gile, Human Resources Director, stated the recommendation would be to receive and file.

Alderman Arnold asked can I ask for clarification? Did you say that this issue is now resolved based on action we took last night?

Mr. Boldin replied the contract with the EAP is now going to cover the responsibility for this service that was previously provided by the City.

Alderman Arnold stated I remember that action being taken last night. I guess my interest in asking for the clarification is the date of the letter, which is June 14<sup>th</sup>, which indicated that this issue is no longer an issue. Does anyone care to offer explanation as to that? I guess I'm sort of confused.

Ms. Gile stated at the time the letter was written the recommendation was that it would go through the Board of Mayor and Aldermen for action. Because of a previous vote that was taken by the Board relative to the employee assistance program, a proposal was submitted by Alderman O'Neil. At that time, the inclusion of the substance abuse hotline was included in that proposal, which was agreed to last night. The contract came forward to the Board for the vote and the contract was approved.

Alderman Arnold stated thank you for the clarification.

On motion of Alderman Lopez, duly seconded by Alderman Arnold, it was voted to receive and file this item.

8. A report of the Committee on Administration/Information Systems respectfully recommends, after due and careful consideration, that the proposed amendments to the Peddler's Ordinance be forwarded to the Committee on Bills on Second Reading.

*(Unanimous vote)*

*(Note: Tabled 11/24/09; City Solicitor to review Ordinance.)*

On motion of Alderman Lopez, duly seconded by Alderman Arnold, it was voted to remove this item from the table.

City Clerk Matt Normand stated I can certainly comment on that. In the April meeting of this Committee, if you recall, we were on the verge of sending out requests for proposals for the vendor's location outside of City Hall. The issue at hand at that time was the practice of vendors bidding on locations. There are two locations, one here and one in the Millyard, being granted that spot and then essentially just tying it up so other vendors couldn't use it. Obviously, the goal of the City was to have someone working at the spot. We felt that it added a lot to the City. We were wrestling with how to best deal with that situation. I worked with the Solicitor's Office and at our first attempt, we came up with a revision to the ordinance. As I testified to the Committee in April, I have since thought of a better way to deal with it and that was to write directly in the request for proposals. This Committee granted me the authority to at least incorporate it in the proposals for April seeing that we were on the verge of going out for City Hall and that worked fine. The bidders agreed to follow the rules, which are identified on page 8-6 of your agenda. With that said and as my memo states a few pages earlier on 8-2, it is my preference that we deal with this in the proposals for each year rather than by amending ordinances because I think there could be some unintended consequences to those revisions of the ordinance. There are, however, a couple of changes that were proposed in the ordinance, which are basically housekeeping things that if possible, the Committee would consider on page 8-3. Those are revisions to sections 115.01, 115.43 and 115.44. I still feel those are necessary revisions that need to be made. Again, they are just minor housekeeping issues, but everything that is below that on 115.45 I don't believe is necessary.

Alderman Lopez asked so Matt, 115.01, definitions, 115.43 and 115.44 is what you want to change?

City Clerk Normand replied right. The bold type is something that I would like to add to a disqualifying criminal conviction of a vendor. This is, as is stated there, any criminal conviction involving a child or an incompetent. There has been some recent publicity in the past several years in other communities of vendors who have had some criminal issues in their past and this is something that we felt would help us tighten up the ordinance a little bit. Since this ordinance was written in 1994, pay and display meters have been incorporated in the City so we wanted to reflect that as you will see in 115.43. Finally, there were a couple of locations in the City where schools were situated within 500 feet of a park and it was our experience that we were seeing some of the ice cream vendors hanging out right at the parks in order to be closer to the school kids and we wanted to at least push them back a little bit so they weren't hanging outside of the schools.

Alderman Lopez stated help me out here, Tom Clark. Can we just approve that and then clean it up for the full Board if we pass it here on these items and get rid of the rest of the stuff?

Mr. Clark replied yes, the Committee could just move to amend sections 115.01, 115.43 and 115.44 and not amend 115.45, and then the Clerk could clean up the ordinance for the Board agenda.

Chairman DeVries stated I have a question for our City Clerk. Have you had the opportunity to review the statutory changes that did occur relating to peddlers and whether or not you felt that you wanted to, while you had the vehicle, deal with the possibility of changing your criminal background check, which as I understand it, having heard testimony at the state level, is very easily tampered with and can be fraudulent if self provided?

City Clerk Normand replied my recollection of that legislation and it has been several weeks since I reviewed that, but there was also a large component on finger printing and that is done on the state level. What I took from that legislation was to force communities that aren't doing anything currently to look at adopting or following those state guidelines. We do that already in Manchester and a lot of that, the finger printing component we don't do and I don't know if that was eventually struck from the state statues or that legislation that was proposed. We have not experienced any problem with falsifying documents coming from the state. The state has a colored seal that each document is stamped with. I suppose that it could be replicated, but I don't see that as a big problem here in Manchester.

Chairman DeVries stated thank you for your thoughts on that. I guess I would only ask that you review the final outcome of that, which was somewhat more enabling than what you reviewed with me early in that legislative process. Also, the testimony coming directly from the State Police and the individuals who are involved in state records and FBI record checks don't concur with you that that seal in any way should be lending confidence to not having been tampered with or altered as it is being presented to you. That is why they wanted to give us the ability, should we choose, to follow it to access an FBI check, which is a higher level of scrutiny and especially if our concerns are involving the criminal activity involving a child or an incompetent. We may want to take a look at that and get back to the Committee at some other time. It sounds like it can be another process for an ordinance change.

City Clerk Normand stated sure, I'll certainly do that.

Alderman Arnold stated I'm not entirely certain who this question is best directed to, but is it my understanding that the proposed ordinance changes on page 8-3 were recommended by the Administration Committee to be adopted in their entirety?

Mr. Clark replied they were presented to the Administration Committee by the City Clerk in their entirety. Since that time, his thinking has changed and the Clerk believes that it is better addressed through the bid process, which is now being handled.

Alderman Arnold asked you testified to the Administration Committee about the proposed ordinances changes?

City Clerk Normand replied I did, and as my memo stated to the Committee on Administration, I was providing them with two options. That memo is on the previous page, 8-2. I provided them with two options. I had some discussions with Alderman Lopez at the time and gave him both scenarios. He asked that I present them both to the Committee at that time so that is what we did. As I stated in that memo, I was cautioning the Committee that there could be unintended consequences by revising ordinances because we would have to apply that to everyone and I think it is better...the issue that we were trying to handle at the time was strictly for people who were bidding on these two specific locations in the City so by incorporating those changes in the bid process, I think we handled that and don't have to change any ordinances.

Alderman Arnold stated I happen to agree with you on your assessment, I just note that the recommendation came out of Administration with a unanimous vote, but as I say, I agree with the City Clerk and his assessment today.

Chairman DeVries stated the motion before us, if I understood, is to incorporate the changes of 115.01, 115.43, and 115.44 as sent to us from the Committee on Administration. Would that be your motion?

Alderman Lopez replied yes, and then I have a comment.

Alderman Lopez moved to approve the changes to 115.01, 115.43, and 115.44 as sent from the Committee on Administration. The motion was duly seconded by Alderman Arnold.

Alderman Lopez stated the only comment I have is that I totally agree with the City Clerk. We had many days of discussion and Alderman Arnold is correct. I think this solves the problem because he did solve the problem that was at hand. I think by sending this to the full Board, his explanation will be well accepted.

Chairman DeVries called for a vote on the motion. There being none opposed, the motion carried.

There being no further business, on motion of Alderman Lopez, duly seconded by Alderman Arnold, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee